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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT TACOMA

9 ROBERT MITCHELL,

10 Plaintiff,

11 v.

12 ROBERT W. POWERS, PH.D., *et al.*,

13 Defendants.

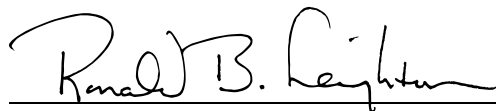
No. C09-5504 RBL/KLS

**ORDER ADOPTING REPORT AND
RECOMMENDATION**

14 The Court, having reviewed the Report and Recommendation of Magistrate Judge Karen
15 L. Strombom, objections to the Report and Recommendation [Dkt. #'s 28, 29], and the
16 remaining record, does hereby find and ORDER:

- 17 (1) The Court adopts the Report and Recommendation;
- 18 (2) This action is **DISMISSED without prejudice** prior to service for failure to state
19 a claim. **This dismissal counts as a strike pursuant to 28 U.S.C. § 1915(g)**; and
- 20 (3) The Clerk is directed to send copies of this Order to Plaintiff, counsel for any
21 Defendants who have appeared, and to the Hon. Karen L. Strombom.

22 DATED this 8th day of January, 2010.

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25 RONALD B. LEIGHTON
26 UNITED STATES DISTRICT JUDGE